

date of the reference; Duran. The showing of facts is such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photocopies thereof, accompany and form part of the declarations.

The invention of the present application was conceived before the filing date of Duran. It is believed that the invention of the present application was reduced to practice before the filing date of Duran, or at least constructively reduced to practice shortly after the filing date of Duran and with diligence between the filing date of Duran and the constructive reduction to practice by the inventors of the present application. Duran does not claim the same invention as claimed by the applicants.

In the present case, because the rejections of claims 29-41 are based, at least partially, upon Duran, the rejections are overcome by submission of the enclosed declaration. The declaration was not submitted earlier because it was unnecessary to overcome the examiner's rejection in the previous office actions.

Applicant's attorney also wanted to bring the following patent to the attention of the examiner:

U.S. Patent No. 6,863,446.

Appl. No.: 10/087,433
Reply to Office Action of: 01/05/2005

The patent is owned by the same assignee as the present application.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issue remain, the Examiner is invited to call applicant's Attorney at the telephone number indicated below.

Respectfully submitted,

Mark F. Harrington
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3/17/05
Date

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail on the date shown below in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

March 17, 2005
Date

Delna Pongetti
Name of Person Making Deposit